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COMMERCE AND REGULATION

HOUSE FILE **2499**
BY SIEGRIST and SCHRADER

Passed House, Date 4/17/96 (P. 1717) Passed Senate, Date 4/22/96 (P. 1458)
Vote: Ayes 95 Nays 0 Vote: Ayes 48 Nays 0
Approved 4/29/96

A BILL FOR

1 An Act relating to definitions, reporting, and remittance
2 guidelines concerning the disposition of unclaimed property.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 2499

1 Section 1. Section 556.1, subsection 2, Code Supplement
2 1995, is amended to read as follows:

3 2. "Business association" means ~~any a~~ corporation ~~other~~
4 ~~than a public corporation~~, joint stock company, business
5 trust, investment company, partnership, limited liability
6 company, trust company, mutual fund, or ~~any association for~~
7 ~~business purposes of two or more individuals~~ other business
8 entity consisting of one or more persons, whether or not for
9 profit.

10 Sec. 2. Section 556.1, Code Supplement 1995, is amended by
11 adding the following new subsection:

12 NEW SUBSECTION. 8A. "Property" means a fixed and certain
13 interest in or right in an intangible that is held, issued, or
14 owed in the course of a holder's business, or by a government
15 or governmental entity, and all income or increment therefrom,
16 including that which is referred to as or evidenced by any of
17 the following:

18 a. Money, check, draft, deposit, interest, dividend, and
19 income.

20 b. Credit balance, customer overpayment, gift certificate,
21 security deposit, refund, credit memorandum, unpaid wage,
22 unused airline ticket, unused ticket, mineral proceeds, and
23 unidentified remittance and electronic fund transfer.

24 c. Stock or other evidence of ownership interests in a
25 business association.

26 d. Bond, debenture, note, or other evidence of
27 indebtedness.

28 e. Money deposited to redeem stocks, bonds, coupons, and
29 other securities, or to make distributions.

30 f. An amount due and payable under the terms of an
31 insurance policy, including policies providing life insurance,
32 property and casualty insurance, workers' compensation
33 insurance, or health and disability benefits insurance.

34 g. An amount distributable from a trust or custodian fund
35 established under a plan to provide health, welfare, pension,

1 vacation, severance, retirement, death, stock purchase, profit
2 sharing, employee savings, supplemental unemployment
3 insurance, or similar benefits.

4 h. Amounts distributable from a mineral interest in land.

5 i. Any other fixed and certain interest or right in an
6 intangible that is held, issued, or owing in the course of a
7 holder's business, or by a government or governmental entity.

8 Sec. 3. Section 556.2, subsection 4, Code Supplement 1995,
9 is amended by striking the subsection.

10 Sec. 4. NEW SECTION. 556.2A TRAVELER'S CHECKS AND MONEY
11 ORDERS.

12 1. Subject to subsection 4, any sum payable on a
13 traveler's check that has been outstanding for more than
14 fifteen years after its issuance is deemed abandoned unless
15 the owner, within fifteen years, has communicated in writing
16 with the issuer concerning it or otherwise indicated an
17 interest as evidenced by a memorandum or other record on file
18 prepared by an employee of the issuer.

19 2. Subject to subsection 4, any sum payable on a money
20 order that has been outstanding for more than seven years
21 after its issuance is deemed abandoned unless the owner,
22 within seven years, has communicated in writing with the
23 issuer concerning it or otherwise indicated an interest as
24 evidenced by a memorandum or other record on file prepared by
25 an employee of the issuer.

26 3. A holder shall not deduct from the amount of a
27 traveler's check or money order any charge imposed by reason
28 of the failure to present the instrument for payment unless
29 there is a valid and enforceable written contract between the
30 issuer and the owner of the instrument pursuant to which the
31 issuer may impose a charge and the issuer regularly imposes
32 such charges and does not regularly reverse or otherwise
33 cancel them.

34 4. A sum payable on a traveler's check or money order
35 described in subsection 1 or 2 shall not be subjected to the

1 custody of this state as unclaimed property unless any of the
2 following apply:

3 a. The records of the issuer show that the traveler's
4 check or money order was purchased in this state.

5 b. The issuer has its principal place of business in this
6 state and the records of the issuer do not show the state in
7 which the traveler's check or money order was purchased.

8 c. The issuer has its principal place of business in this
9 state, the records of the issuer show the state in which the
10 traveler's check or money order was purchased, and the laws of
11 the state of purchase do not provide for the escheat or
12 custodial taking of the property or its escheat or unclaimed
13 property law is not applicable to the property.

14 Sec. 5. NEW SECTION. 556.2B CHECKS, DRAFTS, AND SIMILAR
15 INSTRUMENTS ISSUED OR CERTIFIED BY BANKING AND FINANCIAL
16 ORGANIZATIONS.

17 1. Any sum payable on a check, draft, or similar
18 instrument, except those subject to section 556.2A, on which a
19 banking or financial organization is directly liable,
20 including a cashier's check and a certified check, which has
21 been outstanding for more than three years after it was
22 payable or after its issuance if payable on demand, is deemed
23 abandoned, unless the owner, within three years, has
24 communicated in writing with the banking or financial
25 organization concerning it or otherwise indicated an interest
26 as evidenced by a memorandum or other record on file prepared
27 by an employee of the banking or financial organization.

28 2. A holder shall not deduct from the amount of any
29 instrument subject to this section any charge imposed by
30 reason of the failure to present the instrument for payment
31 unless there is a valid and enforceable written contract
32 between the holder and the owner of the instrument pursuant to
33 which the holder may impose a charge and the holder regularly
34 imposes such charges and does not regularly reverse or
35 otherwise cancel them.

1 Sec. 6. Section 556.5, Code 1995, is amended by striking
2 the section and inserting in lieu thereof the following:

3 556.5 STOCKS AND OTHER INTANGIBLE INTERESTS IN BUSINESS
4 ASSOCIATIONS.

5 1. Any stock, shareholding, or other intangible ownership
6 interests in a business association, the existence of which is
7 evidenced by records available to the association, is deemed
8 abandoned and, with respect to the interest, the association
9 is the holder, if both of the following apply:

10 a. The interest in the association is owned by a person
11 who for more than three years has neither claimed a dividend,
12 distribution, nor other sum payable as a result of the
13 interest, or who has not communicated with the association
14 regarding the interest or a dividend, distribution, or other
15 sum payable as the result of the interest, as evidenced by a
16 memorandum or other record on file with the association
17 prepared by an employee of the association.

18 b. The association does not know the location of the owner
19 at the end of the three-year period.

20 2. The return of official shareholder notifications or
21 communications by the postal service as undeliverable shall be
22 evidence that the association does not know the location of
23 the owner.

24 3. This section shall be applicable to both the underlying
25 stock, shareholdings, or other intangible ownership interests
26 of an owner, and any stock, shareholdings, or other intangible
27 ownership interest of which the business association is in
28 possession of the certificate or other evidence or indicia of
29 ownership, and to the stock, shareholdings, or other
30 intangible ownership interests of dividend and nondividend
31 paying business associations whether or not the interest is
32 represented by a certificate.

33 4. At the time an interest is deemed abandoned under this
34 section, any dividend, distribution, or other sum then held
35 for or owing to the owner as a result of the interest, and not

1 previously deemed abandoned, is deemed abandoned.

2 5. This section does not apply to any stock or other
3 intangible ownership interest enrolled in a plan that provides
4 for the automatic reinvestment of dividends, distributions, or
5 other sums payable as a result of the interest unless one or
6 more of the following applies:

7 a. The records available to the administrator of the plan
8 show, with respect to any intangible ownership interest not
9 enrolled in the reinvestment plan that the owner has not
10 within three years communicated in any manner described in
11 subsection 1.

12 b. Three years have elapsed since the location of the
13 owner became unknown to the association, as evidenced by the
14 return of official shareholder notifications or communications
15 by the postal service as undeliverable, and the owner has not
16 within those three years communicated in any manner described
17 in subsection 1. The three-year period from the return of
18 official shareholder notifications or communications shall
19 commence from the earlier of the return of the second such
20 mailing or the time the holder discontinues mailings to the
21 shareholder.

22 Sec. 7. Section 556.13, Code 1995, is amended by striking
23 the section and inserting in lieu thereof the following:

24 556.13 PAYMENT OR DELIVERY OF ABANDONED PROPERTY.

25 1. Except for property held in a safe deposit box or other
26 safekeeping depository, upon filing the report required by
27 section 556.11, the holder of property presumed abandoned
28 shall pay, deliver, or cause to be paid or delivered to the
29 administrator the property described in the report as
30 unclaimed, but if the property is an automatically renewable
31 deposit, and a penalty or forfeiture in the payment of
32 interest would result, the time for compliance is extended
33 until a penalty or forfeiture would no longer result.

34 Tangible property held in a safe deposit box or other
35 safekeeping depository shall not be delivered to the treasurer

1 of state until one hundred twenty days after filing the report
2 required in section 556.11.

3 2. If the property report to the treasurer of state is a
4 security or security entitlement under the Uniform Commercial
5 Code, chapter 554, article 8, the treasurer of state is an
6 appropriate person to make an endorsement, instruction, or
7 entitlement order on behalf of the apparent owner to invoke
8 the duty of the issuer or its transfer agent or the securities
9 intermediary to transfer or dispose of the security or the
10 security entitlement in accordance with the Uniform Commercial
11 Code, chapter 554, article 8.

12 3. If the holder of property reported to the treasurer of
13 state is the issuer of a certificated security, the treasurer
14 of state has the right to obtain a replacement certificate
15 pursuant to section 554.8408 but an indemnity bond is not
16 required.

17 4. An issuer, the holder, and any transfer agent or other
18 person acting pursuant to the instructions of and on behalf of
19 the issuer or holder in accordance with this section is not
20 liable to the apparent owner and shall be indemnified against
21 claims of any person in accordance with section 556.14.

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EXPLANATION

23 This bill provides for changes in the definitions,
24 reporting, and remittance guidelines in chapter 556 relating
25 to the disposition of unclaimed property.

26 The bill broadens the definition of a business association
27 to include mutual funds, investment companies, limited
28 liability companies, trust companies, and not-for-profit
29 organizations. Section 556.1 presently contains a definition
30 of a business association which lists a smaller number of
31 organizations.

32 The bill adds the word "property" to the definition section
33 of chapter 556. The definition refers to property as a fixed
34 and certain interest or right in an intangible held, issued,
35 or owned in the course of business, or by a government or

1 governmental entity, including income or increment therefrom.
2 A list of types of interests evidencing property ownership or
3 rights is supplied.

4 The bill provides reporting guidelines for holders of
5 traveler's checks, money orders, banking and financial
6 organization instruments, stock, and other intangible
7 interests in business associations. The duration that
8 unclaimed amounts due or payable may remain outstanding before
9 being considered abandoned are specified, together with the
10 required form of communication for maintaining an interest
11 during that time, and the circumstances under which service
12 charges may be imposed.

13 The bill also provides for the remittance of unclaimed
14 property by the holder of the property upon filing a report of
15 abandoned property required by section 556.11. Securities or
16 security entitlements under the Uniform Commercial Code,
17 chapter 554, article 8, can be ordered transferred, remitted,
18 or disposed of by the treasurer of state on behalf of the
19 apparent owner. An issuer, holder, or any transfer agent, or
20 individuals acting on their instructions, shall not be liable
21 to the apparent owner of the property and shall be indemnified
22 against claims in accordance with section 556.14.

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HOUSE FILE 2499

AN ACT
RELATING TO DEFINITIONS, REPORTING, AND REMITTANCE GUIDELINES
CONCERNING THE DISPOSITION OF UNCLAIMED PROPERTY.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 556.1, subsection 2, Code Supplement 1995, is amended to read as follows:

2. "Business association" means any a corporation other than a public corporation, joint stock company, business trust, investment company, partnership, limited liability company, trust company, mutual fund, or any association for business purposes of two or more individuals other business entity consisting of one or more persons, whether or not for profit.

Sec. 2. Section 556.1, Code Supplement 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 8A. "Property" means a fixed and certain interest in or right in an intangible that is held, issued, or owed in the course of a holder's business, or by a government or governmental entity, and all income or increment therefrom, including that which is referred to as or evidenced by any of the following:

- a. Money, check, draft, deposit, interest, dividend, and income.
- b. Credit balance, customer overpayment, gift certificate, security deposit, refund, credit memorandum, unpaid wage, unused airline ticket, unused ticket, mineral proceeds, and unidentified remittance and electronic fund transfer.
- c. Stock or other evidence of ownership interests in a business association.
- d. Bond, debenture, note, or other evidence of indebtedness.
- e. Money deposited to redeem stocks, bonds, coupons, and other securities, or to make distributions.
- f. An amount due and payable under the terms of an insurance policy, including policies providing life insurance, property and casualty insurance, workers' compensation insurance, or health and disability benefits insurance.
- g. An amount distributable from a trust or custodian fund established under a plan to provide health, welfare, pension, vacation, severance, retirement, death, stock purchase, profit sharing, employee savings, supplemental unemployment insurance, or similar benefits.
- h. Amounts distributable from a mineral interest in land.
- i. Any other fixed and certain interest or right in an intangible that is held, issued, or owing in the course of a holder's business, or by a government or governmental entity.

Sec. 3. Section 556.2, subsection 4, Code Supplement 1995, is amended by striking the subsection.

Sec. 4. NEW SECTION. 556.2A TRAVELER'S CHECKS AND MONEY ORDERS.

1. Subject to subsection 4, any sum payable on a traveler's check that has been outstanding for more than fifteen years after its issuance is deemed abandoned unless the owner, within fifteen years, has communicated in writing with the issuer concerning it or otherwise indicated an interest as evidenced by a memorandum or other record on file prepared by an employee of the issuer.

2. Subject to subsection 4, any sum payable on a money order that has been outstanding for more than seven years after its issuance is deemed abandoned unless the owner, within seven years, has communicated in writing with the issuer concerning it or otherwise indicated an interest as evidenced by a memorandum or other record on file prepared by an employee of the issuer.

3. A holder shall not deduct from the amount of a traveler's check or money order any charge imposed by reason of the failure to present the instrument for payment unless there is a valid and enforceable written contract between the issuer and the owner of the instrument pursuant to which the issuer may impose a charge and the issuer regularly imposes such charges and does not regularly reverse or otherwise cancel them.

4. A sum payable on a traveler's check or money order described in subsection 1 or 2 shall not be subjected to the custody of this state as unclaimed property unless any of the following apply:

- a. The records of the issuer show that the traveler's check or money order was purchased in this state.
- b. The issuer has its principal place of business in this state and the records of the issuer do not show the state in which the traveler's check or money order was purchased.
- c. The issuer has its principal place of business in this state, the records of the issuer show the state in which the traveler's check or money order was purchased, and the laws of the state of purchase do not provide for the escheat or custodial taking of the property or its escheat or unclaimed property law is not applicable to the property.

Sec. 5. NEW SECTION. 556.2B CHECKS, DRAFTS, AND SIMILAR INSTRUMENTS ISSUED OR CERTIFIED BY BANKING AND FINANCIAL ORGANIZATIONS.

1. Any sum payable on a check, draft, or similar instrument, except those subject to section 556.2A, on which a

banking or financial organization is directly liable, including a cashier's check and a certified check, which has been outstanding for more than three years after it was payable or after its issuance if payable on demand, is deemed abandoned, unless the owner, within three years, has communicated in writing with the banking or financial organization concerning it or otherwise indicated an interest as evidenced by a memorandum or other record on file prepared by an employee of the banking or financial organization.

2. A holder shall not deduct from the amount of any instrument subject to this section any charge imposed by reason of the failure to present the instrument for payment unless there is a valid and enforceable written contract between the holder and the owner of the instrument pursuant to which the holder may impose a charge and the holder regularly imposes such charges and does not regularly reverse or otherwise cancel them.

Sec. 6. Section 556.5, Code 1995, is amended by striking the section and inserting in lieu thereof the following:

556.5 STOCKS AND OTHER INTANGIBLE INTERESTS IN BUSINESS ASSOCIATIONS.

1. Any stock, shareholding, or other intangible ownership interests in a business association, the existence of which is evidenced by records available to the association, is deemed abandoned and, with respect to the interest, the association is the holder, if both of the following apply:

- a. The interest in the association is owned by a person who for more than three years has neither claimed a dividend, distribution, nor other sum payable as a result of the interest, or who has not communicated with the association regarding the interest or a dividend, distribution, or other sum payable as the result of the interest, as evidenced by a memorandum or other record on file with the association prepared by an employee of the association.

b. The association does not know the location of the owner at the end of the three-year period.

2. The return of official shareholder notifications or communications by the postal service as undeliverable shall be evidence that the association does not know the location of the owner.

3. This section shall be applicable to both the underlying stock, shareholdings, or other intangible ownership interests of an owner, and any stock, shareholdings, or other intangible ownership interest of which the business association is in possession of the certificate or other evidence or indicia of ownership, and to the stock, shareholdings, or other intangible ownership interests of dividend and nondividend paying business associations whether or not the interest is represented by a certificate.

4. At the time an interest is deemed abandoned under this section, any dividend, distribution, or other sum then held for or owing to the owner as a result of the interest, and not previously deemed abandoned, is deemed abandoned.

5. This section does not apply to any stock or other intangible ownership interest enrolled in a plan that provides for the automatic reinvestment of dividends, distributions, or other sums payable as a result of the interest unless one or more of the following applies:

a. The records available to the administrator of the plan show, with respect to any intangible ownership interest not enrolled in the reinvestment plan that the owner has not within three years communicated in any manner described in subsection 1.

b. Three years have elapsed since the location of the owner became unknown to the association, as evidenced by the return of official shareholder notifications or communications by the postal service as undeliverable, and the owner has not within those three years communicated in any manner described in subsection 1. The three-year period from the return of

official shareholder notifications or communications shall commence from the earlier of the return of the second such mailing or the time the holder discontinues mailings to the shareholder.

Sec. 7. Section 556.13, Code 1995, is amended by striking the section and inserting in lieu thereof the following:

556.13 PAYMENT OR DELIVERY OF ABANDONED PROPERTY.

1. Except for property held in a safe deposit box or other safekeeping depository, upon filing the report required by section 556.11, the holder of property presumed abandoned shall pay, deliver, or cause to be paid or delivered to the administrator the property described in the report as unclaimed, but if the property is an automatically renewable deposit, and a penalty or forfeiture in the payment of interest would result, the time for compliance is extended until a penalty or forfeiture would no longer result. Tangible property held in a safe deposit box or other safekeeping depository shall not be delivered to the treasurer of state until one hundred twenty days after filing the report required in section 556.11.

2. If the property report to the treasurer of state is a security or security entitlement under the Uniform Commercial Code, chapter 554, article 8, the treasurer of state is an appropriate person to make an endorsement, instruction, or entitlement order on behalf of the apparent owner to invoke the duty of the issuer or its transfer agent or the securities intermediary to transfer or dispose of the security or the security entitlement in accordance with the Uniform Commercial Code, chapter 554, article 8.

3. If the holder of property reported to the treasurer of state is the issuer of a certificated security, the treasurer of state has the right to obtain a replacement certificate pursuant to section 554.8408 but an indemnity bond is not required.

4. An issuer, the holder, and any transfer agent or other person acting pursuant to the instructions of and on behalf of the issuer or holder in accordance with this section is not liable to the apparent owner and shall be indemnified against claims of any person in accordance with section 556.14.

RON J. CORBETT
Speaker of the House

LEONARD L. BOSWELL
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 2499, Seventy-sixth General Assembly.

ELIZABETH ISAACSON
Chief Clerk of the House

Approved 4/29, 1996

TERRY E. BRANSTAD
Governor